

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ARDELL KENNEDY,

Plaintiff,

v.

CITY OF PHILADELPHIA, *et al.*,

Defendants.

CIVIL ACTION
NO. 19-01076

ORDER

AND NOW, this 15th day of June 2020, upon consideration of Defendants' Motion for Partial Summary Judgment (ECF No. 38), Ardell Kennedy's Response (ECF No. 40) and Defendants' Reply (ECF No. 42) and following oral argument by counsel for the parties (ECF No. 44), it is **ORDERED** that the Motion is **GRANTED in part and DENIED in part**.¹ Specifically:

1) The Motion is **GRANTED** and judgment **ENTERED** in Defendants' favor

on:

a) All federal claims against Lieutenant Gregory Brown, Officer Ronald Jackson and the City of Philadelphia;

b) All federal claims against Officer Hugo Lemos and Officer Joseph Koger in their official capacities;²

¹ This Order applies only to the federal claims against the Defendants; the parties have agreed to stipulate to the disposition of all state-law claims. *See* (Hr'g Tr. 39:9–14, ECF No. 44).

² A suit against a municipal employee in his official capacity "is, in all respects other than name, to be treated as a suit against the [municipal] entity." *Kentucky v. Graham*, 473 U.S. 159, 166 (1985). Because Kennedy concedes his claims against the City cannot survive summary judgment, his claims against the individual defendants in their official capacity likewise fail. *See Barna v. Bd. of Sch. Dirs. of Panther Valley Sch. Dist.*, 877 F.3d 136, 150 n.11 (3d Cir. 2017) (vacating claims against individuals in their official capacities because "the analysis as to the [entity] applies" to the official-capacity claims).

- c) The federal conspiracy claims against Lemos and Koger;
 - d) The federal failure-to-intervene claim against Koger.
- 2) The Motion is **DENIED** as to the federal false-imprisonment and malicious-prosecution claims against Lemos. All other federal claims against Lemos—other than the false-arrest claim—are deemed **WITHDRAWN**.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.